

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Sylvia Alvarez, : Civil No. 1:21-cv-00885-VEC-GRJ
: :
: Plaintiff, : Motion for Attorney's Fees
: v. : Pursuant to the Equal Access to Justice Act
: : 28 U.S.C. §2412
: :
: Commissioner of Social Security, :
: Defendant. :
-----x

COUNSEL:

PLEASE TAKE NOTICE that upon the annexed affidavit of Daniel Berger, attorney for the plaintiff, and the other papers, the plaintiff makes a motion before this Court, for an order:

1. Awarding attorney's fees plus costs in the sum of \$11,036.00 pursuant to the Equal Access to Justice Act; and
2. Granting such other and further relief as may be deemed just and proper.

Plaintiff, by and through her attorney, Daniel Berger, hereby moves the court to award attorney's fees to be paid by the defendant pursuant to the Equal Access to Justice Act, 28 USC §2412. Plaintiff asks for an award of attorney's fees in the amount of \$11,036.00 to be paid to plaintiff's attorney calculated at the rate of \$224.00 per hour for 49 hours of work performed by Daniel Berger and paralegal fees to be calculated at the rate of \$100.00 per hour for 0.6 hours of work performed on this case in Federal Court.

Plaintiff is entitled to receive attorney's fees pursuant to the Equal Access to Justice Act because she is the prevailing party in this action, is an individual whose net worth did not exceed two million dollars at the time the action was filed as is demonstrated by plaintiff's affidavit and attached signed IFP application and the position of the United States in this litigation and at the agency was not substantially justified. Although the burden of proof on the issue of substantial justification is on the government, plaintiff's supporting memorandum briefly addresses this issue.

There are no special circumstances in this case which make an award under the EAJA unjust.

This motion is supported by the affidavit of plaintiff, affidavit of plaintiff's attorney, memorandum, federal court retainer signed by plaintiff, and plaintiff's signed IFP application.

Dated at Bronx, NY this October 12, 2022

Respectfully submitted,



Daniel Berger

Attorney for Plaintiff

Law Office of Daniel Berger

1000 Grand Concourse, Suite 1A

Bronx, NY 10451

Defendant is hereby ordered to file any opposition to Plaintiff's motion not later than **Wednesday, October 26, 2022**, and Plaintiff must file any reply not later than **Wednesday, November 2, 2022**. If Defendant does not oppose Plaintiff's motion, then the parties must submit a joint stipulation of attorneys' fees and costs to be awarded in this case not later than **Wednesday, October 26, 2022**.
SO ORDERED.



10/17/2022

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE